

Patent App. Ser. No. 10/672,730
Eclipse Group Docket No. MO06002USU

REMARKS

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Claims 1-3, 5-11, 13-15 and 33-40 are pending this application. In the April 17, 2006 Final Office Action, the Examiner:

1. Rejected claims 1-3, 5, 9-11, 13 and 33-36 as anticipated under 35 U.S.C. § 102 by Dybbs (U.S. Patent Application No. 6,228,099).

I. RESPONSE TO 35 U.S.C. § 102 REJECTIONS

A. New Claim 41

Applicants have deleted generic claim 1 and added new generic claim 41 in its place. Dependent claims 2, 3 and 5 now depend from claim 41. Applicants respectfully submit that new claim 41 more clearly and distinctly points out what Applicants regard as their invention. New claim 41 finds support in the specification at least at page 9, lines 9-17; page 10, lines 15-20; page 11, lines 1-7 and pages 12, line 7 to page 13, line 4. Applicants respectfully submit that no new matter has been added.

B. Rejection based on Anticipation by Dybbs

The Examiner rejected claims 1-3, 5, 9-11, 13 and 33-36 as anticipated under 35 U.S.C. § 102 by Dybbs. In rejecting claims 1-3, 5, 9-11, 13 and 33-36, the Examiner stated that:

Dybbs discloses a blade assembly that can be assembled into a microkeratome, including: a blade (98) has a cutting edge (102), a rear edge (see attached figure where all yellow mark is characterized as a rear edge), and pair of side edges (occurs at either side of element 98), where a blade holder (96) that has a reference surface and is loaded into the inner cavity, and where the blade holder reference surface (106) is capable of pressing into and in contact with the rear edge of the blade and is capable of attaching the blade holder to the blade, where the blade holder has a slot that receives the pin (135), and where the rear edge has a plurality of fingers (occur at either side of element 102), and where the blade holder is coupled to the blade by a frictional fit, and where the blade can pivot relative to the blade holder, and where the blade holder also has an outer groove (fig.4).

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Applicants respectfully submit that Dybbs does not anticipate any of the pending claims. With respect to new independent claim 41, Dybbs does not teach “a blade holder reference surface oriented so as to enable calibrating the blade to fix a distance between the blade holder reference surface and the cutting edge.” With respect to claim 9, Dybbs does not teach “a coupling means for coupling said rear edge of said blade to said blade holder.” With respect to claim 33, Dybbs does not teach either “blade holder slots” or “a plurality of fingers that are pressed into said blade holder slots.”

1. Rejection of Claims 1-3, and 5

The Examiner states that Dybbs teaches a “blade holder reference surface (106).” Reference to Dybbs reveals that the element identified by reference number 106 in Figure 3 of Dybbs is “a parallel angled top surface 106 of a wedge 100.” 8:58-59. Nowhere in Dybbs is there a teaching that the parallel angled top surface 106 is a “blade holder reference surface” nor is there any teaching from which it may be inferred that the parallel angled top surface 106 has such a function.

As new claim 41 clearly recites, the blade holder has “a blade holder reference surface oriented so as to enable calibrating the blade to fix a distance between the blade holder reference surface and the cutting edge.” Dybbs does not teach permitting calibration to fix the distance between the cutting edge and any type of reference surface on the microkeratome, or any part of the structure that holds the cutting blade in place. In fact, Dybbs teaches away from permitting calibration of the cutting edge. The cutting blade in Dybbs has openings with portions extending inward around the openings at the rear of the blade to permit holding the blade to the protrusion of the blade holder. Dybbs, 9:3-8. The structure in Dybbs does not permit calibrating the extent to which the cutting edge extends into the cornea.

In view of the above, Applicants respectfully submit that new claim 41 is not anticipated by Dybbs. Claims 2, 3 and 5 depend from new claim 41 and are therefore not anticipated by Dybbs.

2. Rejection of Claims 9-11, and 13

In rejecting claims 9-11, the Examiner did not state where Dybbs teaches or

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discloses "a coupling means for coupling said rear edge of said blade to said blade holder." Dybbs teaches "a blade holder 96 having a protrusion 120 that closely fits through an opening 122 in the cutting blade 98. The sides of the protrusion 120 of the blade holder 96 engage the sides of the opening 122 in the cutting blade 98 which is thereby held for movement with the blade holder 96." 9:3-8. Dybbs clearly and unambiguously teaches engaging the blade to the blade holder via an *opening* in the blade that receives the protrusion in the blade holder.

Dybbs does not teach "...coupling said *rear edge* of said blade to said blade holder." The edge of the opening in the Dybbs blade is different from the rear edge as recited in claim 9. The rear edge recited in claim 9 is open to permit alignment and calibration of the blade holder with the blade. *See* Specification, pg. 10, lines 1-4. The opening in the Dybbs blade would not permit such alignment or calibration as the blade is locked in to the protrusion and "held for movement with the blade holder 96." 9:3-8.

Accordingly, Dybbs does not anticipate independent claim 9, nor claims 10, 11 and 13, which depend from claim 9.

3. Rejection of Claims 33-36

In rejecting claims 33-36, the Examiner stated that Dybbs teaches "a plurality of fingers (occur at either side of element 102)," but did not identify where Dybbs teaches any blade holder slots for receiving the fingers as recited in independent claim 33. In addition, the Examiner states that the plurality of fingers "occur at either side of element 102." However, element 102 in Dybbs is a cutting edge. None of the figures in Dybbs depicts an element 102 with anything that resembles any fingers, and the specification fails to teach that any fingers may be added to the cutting edge.

Accordingly, Dybbs does not anticipate independent claim 33, nor claims 34-36, which depend from claim 33.

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CONCLUSION

Favorable consideration is respectfully requested in view of the following amendments and remarks.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to our Deposit Account No. 50-2542. A copy of this sheet is enclosed.

Respectfully submitted,

Dated: 8.16.06


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